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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 GRANT CHARLES RHODES,
11 CDCR # V-60392,

12 Plaintiff,

13 v.

14 CATHERINE LYNCH, SRN II,

15 Defendant.

Civil No. 12-cv-0075-JLS (DHB)

**ORDER RE: “NOTICE FOR
DISCOVERY” AND ISSUANCE
OF SUBPOENA DUCES
SUBPOENA**

[ECF Nos. 47, 49]

16 On August 7, 2013, Plaintiff Grant Charles Rhodes, a state prisoner proceeding pro
17 se, filed (1) a “Notice for Discovery” seeking to compel the Acting Chief Medical Officer
18 at Centinela State Prison to produce answers to documents; and (2) a subpoena duces
19 tecum in which he sets forth requests for production of various documents by the Acting
20 Chief Medical Officer at Centinela State Prison. (ECF No. 49.)

21 First, to the extent Plaintiff’s “Notice of Discovery” and subpoena seek to compel
22 the Acting Chief Medical Officer to provide responses to written interrogatories,
23 Plaintiff’s request is **DENIED**. Interrogatories may only be served on parties to the
24 action. FED. R. CIV. P. 33(a)(1).

25 Second, the Court notes that filing a subpoena is not the proper way to go about
26 requesting documents from non-parties. Rule 45 of the Federal Rules of Civil Procedure
27 requires service of a subpoena be made by delivering a copy of the subpoena *to the*
28 *named person*, not to the Court. FED. R. CIV. P. 45(b)(1). However, the Court will

1 liberally construe Plaintiff's pro se filing of a subpoena as a request for the Court to issue
2 a subpoena duces tecum to gather documents from a non-party.

3 In accordance with Rule 45(a)(3) of the Federal Rules of Civil Procedure, "[t]he
4 clerk must issue a subpoena, signed but otherwise blank, to a party who requests it. That
5 party must complete it before service." FED. R. CIV. P. 45(a)(3). The Court will direct
6 the Clerk of Court to mail to Plaintiff, with this order, one signed but otherwise blank
7 subpoena duces tecum form (AO-88B "Subpoena to Produce Documents, Information
8 or Objects") which should be completed by Plaintiff. Plaintiff's *in forma pauperis* status
9 allows him assistance in the service of a completed records subpoena by the United States
10 Marshal. *See* 28 U.S.C. § 1915(d). Plaintiff is advised that he must comply with Rule
11 45 of the Federal Rules of Civil Procedure, which governs the issuance of non-party
12 subpoenas.

13 Accordingly, IT IS HEREBY ORDERED:

- 14 1. Plaintiff's request that the Acting Chief Medical Officer at Centinela State
15 Prison be compelled to respond to written interrogatories is **DENIED**.
- 16 2. The Clerk of Court is directed to mail to Plaintiff the following:
 - 17 a. A copy of this order;
 - 18 b. A copy of the Court's February 28, 2012 order granting IFP status
19 (ECF No. 3); and
 - 20 c. One signed but otherwise blank subpoena duces tecum form (AO-
21 88B "Subpoena to Produce Documents, Information or Objects");
- 22 3. Within 21 days of this order Plaintiff shall complete the subpoena duces
23 tecum form and return it to the United States Marshal for service.

24 **IT IS SO ORDERED.**

25 DATED: August 8, 2013

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27 DAVID H. BARTICK
28 United States Magistrate Judge